

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JAMES STEWARD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No.: 4:17-cv-1397
	)	
COMMERCE BANK,	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendant.	)	
	)	

**NOTICE OF REMOVAL**

COMES NOW Defendant Commerce Bank ("Commerce"), pursuant to 28 U.S.C. §§ 1367, 1441, and 1446, and files its Notice of Removal of the above-captioned cause of action from the Circuit Court, Saint Charles County, State of Missouri, Associate Division in which it is now pending, to the United States District Court for the Eastern District of Missouri, Eastern Division. As grounds for removing this action, Commerce states as follows:

1. On or about December 9, 2016, Plaintiff James Steward ("Plaintiff") filed a Petition ("Petition") in the Circuit Court, Saint Charles County, State of Missouri, Associate Division, captioned *James Steward, Plaintiff v. Commerce Bank, Defendant*, Case No. 1611-AC07161.
2. The Summons and Petition were served on Commerce on March 31, 2017.
3. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 2.03, copies of all process, pleadings, and orders from the State Court file are attached hereto as **Exhibit A**.

4. This Notice of Removal is being filed within thirty (30) days after the simultaneous service of the Petition and Summons on Commerce and, therefore, is timely filed pursuant to 28 U.S.C. § 1446(b).

5. This Court has original jurisdiction over this action under 28 U.S.C. § 1331. The Court has federal question jurisdiction under 28 U.S.C. § 1441(a) and § 1331 because Plaintiff alleges that Commerce violated the federal Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, *et seq.* (Petition, ¶¶ 1, 4 and 8-13).

6. 28 U.S.C. § 1331 provides that “district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” The TCPA arises under federal law. Accordingly, this Court has jurisdiction over Plaintiff’s federal claim.

7. This action may be removed to this Court pursuant to 28 U.S.C. § 1441(a), which allows for the removal of any civil action brought in a state court of which the District Courts of the United States have original jurisdiction, by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

8. Additionally, this Court has supplemental jurisdiction over Plaintiff’s remaining state law claim, for invasion of privacy – intrusion upon seclusion, because the claim “form[s] part of the same case or controversy.” 28 U.S.C. § 1367(a).

9. The United States District Court for the Eastern District of Missouri is the District Court for the district embracing Saint Charles County, where the action is currently pending. *See* 28 U.S.C. § 105(a)(1).

10. Venue is therefore proper in this district under 28 U.S.C. § 1441(a).

11. Contemporaneously herewith, Commerce provided Plaintiff with written notice of the filing of this Notice of Removal as required by 28 U.S.C. § 1446(d).

12. Pursuant to the requirements of 28 U.S.C. § 1446(d), Commerce filed a copy of this Notice of Removal with the Clerk of the Circuit Court of Saint Charles County, Missouri, Associate Division.

13. Commerce has given the undersigned attorneys authority to sign and file this Notice of Removal.

14. A completed Original Filing Form is attached hereto as **Exhibit B**.

15. A completed Civil Cover Sheet is attached hereto as **Exhibit C**.

16. Commerce expressly reserves its right to raise all defenses and objections to Plaintiff's claims after the action is removed to the above Court.

WHEREFORE, Commerce respectfully requests this action be removed to this Court, and respectfully requests that this Court exercise its subject matter jurisdiction over this action and grant such other relief as the Court may deem just and proper.

Dated: April 28, 2017

Respectfully submitted,

THOMPSON COBURN LLP

By: /s/ Matthew D. Guletz

Edwin G. Harvey, #30565MO  
Matthew D. Guletz, #57410MO  
One U.S. Bank Plaza, Suite 2700  
St. Louis, Missouri 63101  
(314) 552-6000 (telephone)  
(314) 552-7000 (facsimile)  
*eharvey@thompsoncoburn.com*  
*mguletz@thompsoncoburn.com*

*Attorneys for Defendant Commerce Bank*

**CERTIFICATE OF SERVICE**

I hereby certified that on April 28, 2017, I electronically filed the foregoing with the Clerk of the Court using CM/ECF system. I hereby certify that on April 28, 2017, I have served a copy of the foregoing by first-class mail, postage prepaid on:

Dominic Pontello  
Pontello Law, LLC  
5988 Mid Rivers Mall Dr., Suite 114  
St. Charles, MO 63304  
(636) 541-7673  
(636) 441-6881 facsimile  
dominic@pontellolaw.com

*Attorney for Plaintiff*

/s/ Matthew D. Guletz